

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TREAUNA L. TURNER,

Plaintiff,

v.

PALLARES, *et al.*,

Defendants.

Case No. 1:21-cv-01721-AWI-BAM (PC)

ORDER VACATING FINDINGS AND
RECOMMENDATIONS TO DISMISS
ACTION, WITHOUT PREJUDICE, FOR
FAILURE TO OBEY COURT ORDERS AND
FAILURE TO PROSECUTE

(ECF No. 19)

Plaintiff Treauna L. Turner (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On February 17, 2022, the Court screened the complaint and found that Plaintiff stated a cognizable claim against Defendant Showalter for deliberate indifference to medical care in violation of the Eighth Amendment, but failed to state any other cognizable claims for relief against any other defendants. (ECF No. 8.) The Court ordered Plaintiff to file a first amended complaint or notify the Court in writing that she does not wish to file a first amended complaint and is willing to proceed only on the cognizable claim identified. (*Id.* at 11–12.) Following three extensions of time, the August 29, 2022 deadline for Plaintiff to file a first amended complaint or a notice of her willingness to proceed on the cognizable claims identified expired. Therefore, on September 13, 2022, the Court issued findings and recommendations to dismiss this action, without prejudice, for failure to obey court orders and failure to prosecute. (ECF No. 19.)

1 On September 21, 2022, in lieu of objections, Plaintiff filed a first amended complaint.
2 (ECF No. 20.) In that filing, Plaintiff states that she is sorry for more delays, and the institution
3 was on lockdown due to ongoing COVID-19 positive cases. (*Id.* at 15.)

4 In light of the filing of Plaintiff's first amended complaint and explanation for the delay in
5 filing, the Court finds it appropriate to vacate the pending findings and recommendations.

6 Accordingly, the findings and recommendations issued on September 13, 2022, (ECF No.
7 19), are HEREBY VACATED. Plaintiff's first amended complaint, filed September 21, 2022,
8 will be screened in due course.

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10 IT IS SO ORDERED.

11 Dated: September 22, 2022

/s/ Barbara A. McAuliffe
12 UNITED STATES MAGISTRATE JUDGE
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